IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3516 OF 2005

Ashok Jagannath Pawar & Anrs. ...Applicants

V/s.

The State of Maharashtra ...Respondent

Shri. V.V.Purvant for the Applicants.
Shri. K.V.Saste A.P.P. for the Respondent.

CORAM : A.S. OKA, J.
DATED : JUNE 17, 2005.

P.C.:

1. The Applicant No.1 who is the husband of decesed, the Applicant No.2 who is real brother of the Applicant No.1 and their father are involved in the case registered under sections 306, 498-A, 323, 504, 506 read with section 34 of the Indian Penal Code at Borgaon Police Station, Satara. The marriage between the Applicant No.1 and the deceased was solemnised in the year 1989. There are two minor children born from the wed-lock.

2. The case of the prosecution is that the deceased-wife of the Applicant No.1 was all along being illtreated by the Accused as she could not comply with the demands made from time to time by the Accused. In the year 1993, the Accused were prosecuted for the offences punishable under sections 498-A, 323, 504 read with section 34 of the Indian

Penal Code. The trial resulted in to acquittal. The case of the prosecution is that on 3rd March, 2005 the deceased left the matrimonial home. On 5th March, 2005 the dead body of the deceased was found floating in a well. F.I.R. was filed by the father of the deceased on 6th March, 2005.

3. The learned Counsel appearing for the Applicants submitted that the allegations made by the father of the deceased in the F.I.R. are very vague and general in nature. He pointed out that the prosecution instituted against the Applicants eariler in the year 1994 for the offence punishable under section 498-A of the Indian Penal Code has resulted into acquittal. He submitted that investigation is completed and chargesheet has been filed and there is no reason why the Applicants should be detained in jail.

4. The learned A.P.P. submitted that the eariler acquittal was a result of compromise as the Applicants assured at that time that the deceased will be treated properly. He submitted that the deceased-wife all along has been illtreated and there have been allegations in particular against the Applicant NO.1 of illtreating the deceased.

5. I have considered the rival submissions. Considering the material on record prima facie it appears that there is evidence to show complicity of the Applicant No.1 in the offence. The deceased left the matrimonial home on 3rd March, 2005 and her whereabouts could be located only after her body was found floating in a well. In so far as the Applicant no.2 is concerned, there is hardly any material available on record which warrants detention of the Applicant No.2 in the custody. The father of the Applicants have been already enlarged on bail on the ground that he is 75 years old and he was not the Accused in the earlier case.

6. In my view, case is made out for enlarging the Applicant NO.2 on bail. As chargesheet is already filed, the case can be transferred to the Fast Track Court, if available, for earlier disposal.

7. Hence, I pass the following order:

: O R D E R :

i) The Applicant NO.2 shall be enlarged on bail subject to furnishing P.R. Bond in the sum of Rs.10,000/- with one or two sureties in the like

amount.

ii) The Applicant No.2 is enlarged on bail subject to condition that he will attend various dates fixed in the Trial Court and will co-operate with the learned Trial Judge for the early disposal of the case. In case any default is made by the Applicant, it may be the ground for cancellation of bail.

iii)The learned Sessions Judge, Satara will transfer the pending case to a Fast Track Court, if available, for ensuring its early disposal.

(iv) The Application of the Applicant No.1 is rejected.

(v)Parties and concerned Court to act upon an authenticated copy of this order.

JUDGE